



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
302-739-4553 (voice) 302-739-6126 (fax) <http://www.gacec.delaware.gov>

January 27, 2020

Nicole Cunningham
Planning, Policy and Quality Unit
Division of Medicaid and Medical Assistance
1901 North DuPont Highway/P O Box 906
New Castle, DE 19720-0906

RE: 23 DE Reg. 528 [DHSS/DMMA Proposed Delaware Healthy Children's Program State Plan Revision Regulation (January 1, 2020)]

Dear Ms. Cunningham:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Division of Medicaid and Medical Assistance (DMMA) proposal to amend section 2.2 of Title XXI Delaware Healthy Children's Program State Plan regarding Health Services Initiatives, which governs governmental initiatives aimed at improving the health of Delawarean children. The regulation is being amended to revise the definition of "low-income" to align with the Delaware Department of Education's (DDOE) definition of low-income in its Vision Services – School Based Initiative, and to revise the data collection process in an effort to aid in the identification of uninsured children. Council would like to share the following observations.

First, Council is concerned by the change to the definition of "low-income" to align with the DDOE definition, which has been in use since the 2013-14 school year. Currently, low-income is defined as a Title I school where at least 51% of the student body receives free or reduced-price meals. DMMA proposes to change the definition to include only those schools that qualify as a Community Eligibility (CEP) School. Schools are considered eligible for CEP if at least 40% of its students are "directly certified" through the Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) and the school provides meals to its students. Council is concerned that this definitional change may reduce the number of students who qualify for vision screening services, which may be of concern.

Second, in addition to the above concern, the United States Department of Agriculture (USDA) proposed to change the categorical eligibility in SNAP, by eliminating the broad-based categorical eligibility, which gives states the flexibility to waive specific asset and income limits for households receiving both SNAP and other benefits. In its analysis, USDA estimated that this change would result in approximately 1 million students automatically losing access to free school meals.

Council opposes these definitional changes since they may result in fewer children receiving school-based vision services outlined under this plan. In addition, the threat of the USDA proposal could mean that even more Delaware students would become ineligible.

Third, a second major change of concern involves the process by which eligible students are identified and screened. Presently, once a student fails the school-supplied vision screening, a qualified provider would send home, with the student, a parental consent form. Only if a parent consented to the provider's services would a student then be screened and provided with corrective lenses and frames in the on-site mobile eye clinic.

DMMA proposes to remove the need for parental consent before the provision of provider services. Instead of obtaining consent prior to service, the qualified provider would only be required to send home, with the student, a notice that the student would be receiving a vision screening, eye exam, and corrective lenses and frames if necessary. If a guardian does not want these services, they must return the form/notice to the school indicating their refusal. It is unclear from the proposal whether the form would need to be sent back to the school consenting to services before they are performed; however, the removal of the words "For children whose return with parental consent..." would lend itself to the belief that the proposal is removing the need for parental consent. Council understands that eliminating the requirement for parental consent may result in more children getting access to services but doing so conflicts with Delaware law.

Under Delaware law, parental consent is required for the provision of medical treatment to a minor. 13 Del C. §707(b). Medical treatment is defined as "developmental screening, mental health screening and treatment, and ordinary and necessary medical and dental examination and treatment [.]" 13 Del. C. §707 (a)(2). Eye screenings and exams would arguably be included under this definition of medical treatment, which requires parental consent. Council recommends DMMA not remove the need for parental consent for the provision of eye screening, eye examinations, or corrective lenses and frames. Parental consent is required by Delaware law.

Fourth, DMMA also proposes to change the timeline for providing corrective lenses and frames to those students identified as having a need for these. Instead of being provided with corrective eyewear in the mobile eye clinic, the student will be given a notice to be sent home, explaining the need for corrective eyewear and requesting insurance information. There is no mention in the proposed changes of when the students would then be provided with the corrective eyewear. Council recommends DMMA include a timeline of when students can expect to receive corrective eyewear once identified as having a need and insurance information has been provided. The request for insurance information can be included in the initial parental consent form. Council suggests DMMA consider providing a blanket permission for such assessments in the packets of information students receive at the beginning of the school year.

In an effort to streamline the process, Council recommends that in addition to not removing the requirement for parental consent for the provision of the eye screening and examination, DMMA include the request for insurance information in the initial consent form. This would eliminate the need for providers to send a second notice/form home with students. The initial parental consent form would then include whether the parent consented to the eye screening and examination and, if the parent consents to the services, the student's insurance information.

Fifth, Council would like additional information on the process if a student has private insurance. Will this delay access to services? Also, how do children outside of CEP schools get access to vision services?

Thank you for your time and consideration of our observations and questions. Please feel free to contact me or Wendy Strauss with any questions you may have and additional information.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc